

Exhibit B

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October 28, 2014

VIA Email

Daniel Johnson, Jr., Esq.
Morgan Lewis
One Market, Spear Street Tower
San Francisco, CA 94105-1596
djjohnson@morganlewis.com

Re: *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, MDL No. 2542;
Distribution of the Massachusetts patent litigation documents to other parties

Dear Dan:

It has come to our attention that JBR appears to have distributed or permitted distribution of Exhibits 35-41 from JBR's August 22, 2014 30(b)(6) deposition of Kevin Sullivan to Plaintiff TreeHouse, and possibly to the Direct and Indirect Purchaser Plaintiffs as well. *See* A. Badini letter to the Court, at Exhibits 5 and 6 (Oct. 24, 2014). As you know, JBR obtained these documents (the "Massachusetts documents") in discovery during Keurig's prior patent litigation with JBR, and Judge Broderick has imposed strict limitations on their use in this litigation.

On August 6, 2014, Judge Broderick ruled that the Massachusetts documents were "not to be used . . . in any way with regard to 14-MD-2542." ECF No. 76. The Court later allowed JBR to use these documents (with certain limitations) during 30(b)(6) depositions of Keurig and the preliminary injunction hearing. ECF No. 101. Significantly, during the August 19 conference, the Court instructed that other parties to the MDL proceedings would be permitted to view the documents during the depositions and at the hearing, but required that they return the documents at the end of the respective proceedings. *See, e.g.,* Hr'g Tr. 17:14-18 (Sept. 3, 2014) ("Similar to what we had made arrangements with regard to the depositions, once the hearing is concluded I'd ask the parties to return the copies of the documents to Mr. Johnson.").

The parties all appeared to comply with the Court's instruction, returning the documents on the spot at the end of the deposition on August 22. In addition, following the deposition, Keurig reminded JBR in writing to make sure that Exhibits 35-41 were not provided to any other plaintiffs who requested a transcript. *See* Exhibit A. And, on September 2, when JBR mistakenly attached certain of the Massachusetts documents to an email sent to counsel for all parties, Keurig pointed out JBR's error, and JBR immediately asked counsel for the other plaintiffs to destroy the original email. *See* Exhibits B and C.

In light of TreeHouse's letter on Friday night, however, it appears that JBR may not have complied with the Court's instruction and may have permitted the inclusion of these documents as exhibits to the copies of the Sullivan deposition transcript that were distributed to TreeHouse

October 28, 2014

Daniel Johnson, Jr., Esq., Page - 2 -

and possibly to other plaintiffs, in spite of repeated reminders not to do so. We therefore ask that you immediately request the return of the Massachusetts documents.

In addition, to the extent that other plaintiffs now have these documents (either because they were provided by JBR or by TreeHouse in its October 24 filing), by copy of this letter we request that TreeHouse and each of the Purchaser Plaintiffs return any copies of the Massachusetts documents that are in their possession, and confirm in writing that they have done so.

Sincerely,



Wendelynn J. Newton

WJN/hll

cc: (via email) TreeHouse, liaison counsel for Direct Purchasers, and liaison counsel for Indirect Purchasers

Exhibit A

From: [Ross, Aaron](#)
To: ["Minne, Jacob J.O."](#); [Hoying, Herman J. \(hhoying@morganlewis.com\)](#); [Johnson, Jr., Daniel \(djjohnson@morganlewis.com\)](#)
Cc: [Cary, George S.](#); [Brannon, Leah](#); [Newton, Wendelynn \(wendelynn.newton@bipc.com\)](#); [mackenzie.baird@bipc.com](#); [Ewing, Elaine](#); [Tavernia, Tara](#)
Subject: Exhibits from 8/22 Sullivan Depo
Date: Monday, August 25, 2014 11:57:00 AM

Jacob,

Please confirm that, in accordance with Judge Broderick's direction that documents from the patent litigation used in Friday's deposition of Kevin Sullivan are not to be retained by counsel for TreeHouse or the class action plaintiffs, Exhibits 35-41 from Friday's depositions will not be circulated with the deposition transcripts and other exhibits.

Thanks,
Aaron

Aaron Ross
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* Admitted only to a bar other than that of the District of Columbia. Working under the supervision of the principals of the Washington Office.

Exhibit B

From: [Ewing, Elaine](#)
To: ["Naranjo, Minna Lo"](#)
Cc: [Roger, Kent M.](#); [Bregman, Dion M.](#); [Johnson, Jr., Daniel](#); [Carr, Michael F.](#); [Hoying, Herman J.](#); [Mindlin, Danielle P.](#); [Brannon, Leah](#); [Newton, Wendelynne \(wendelynne.newton@bipc.com\)](#); [Minne, Jacob J.O.](#); [Cary, George S.](#); [Hsu-Hoffman, Ahren C.](#); [Malm, Larry](#)
Subject: RE: Case 1:14-md-02542-VSB Rogers" Reply ISO Motion for a Preliminary Injunction (Part 3 of 3)
Date: Tuesday, September 02, 2014 11:54:00 PM

Minna,

We note that your filing, which was sent to all counsel of record, includes as Exhibits documents from the Massachusetts patent litigation that the Court has indicated should not be shared with counsel for other parties. Please fix this error immediately and confirm to us that you have done so.

Regards,
Elaine

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From: Naranjo, Minna Lo [<mailto:mnaranjo@morganlewis.com>]
Sent: Tuesday, September 02, 2014 11:14 PM
To: BroderickNYSDChambers@nysd.uscourts.gov
Cc: [Johnson, Jr., Daniel](#); [Roger, Kent M.](#); [Hoying, Herman J.](#); [Carr, Michael F.](#); [Hsu-Hoffman, Ahren C.](#); [Bregman, Dion M.](#); [Minne, Jacob J.O.](#); [abadini@winston.com](#); [storpey@winston.com](#); [dwebb@winston.com](#); [jherbison@winston.com](#); [dhughes@winston.com](#); [Inussbaum@gelaw.com](#); [pbarile@gelaw.com](#); [lsilvestro@gelaw.com](#); [mbuchman@motleyrice.com](#); [astraus@motleyrice.com](#); [jioannou@motleyrice.com](#); [bpersky@rkmc.com](#); [klerner@rkmc.com](#); [efriedman@rkmc.com](#); [rkaplan@kaplanfox.com](#); [rkilsheimer@kaplanfox.com](#); [garensen@kaplanfox.com](#); [ldubick@kaplanfox.com](#); [mchoi@kaplanfox.com](#); [bc@pritzker-law.com](#); [sy@pritzker-law.com](#); [ecp@pritzker-law.com](#); [jak@girardgibbs.com](#); [agkurtz@pomlaw.com](#); [jagoldstein@pomlaw.com](#); [mbgoldstein@pomlaw.com](#); [mschwartz@scott-scott.com](#); [bsimon@pswlaw.com](#); [rretana@pswlaw.com](#); [jmclean@bzbm.com](#); [pryan@bzbm.com](#); [rbunzel@bzbm.com](#); [bedlund@bzbm.com](#); [shart@smsm.com](#); [downen@polsinelli.com](#); [gzorogastua@polsinelli.com](#); [xanb@rgrdlaw.com](#); [bonnys@rgrdlaw.com](#); [cmedici@rgrdlaw.com](#); [patc@rgrdlaw.com](#); [drosenfeld@rgrdlaw.com](#); [srudman@rgrdlaw.com](#); [atamoshunas@tcllaw.com](#); [klandau@tcllaw.com](#); [mgreaves@tcllaw.com](#); [dgustafson@gustafsongluek.com](#); [fqian@wolfpopper.com](#); [llevy@wolfpopper.com](#); [pavery@wolfpopper.com](#); [ctrinko@gmail.com](#); [jtraystman@trinko.com](#); [cbriskin@findjustice.com](#); [notifications@oliverlg.com](#); [manifold@whafh.com](#); [gregorek@whafh.com](#); [livesay@whafh.com](#); [geoffrey.grivner@bipc.com](#); [london.jones@bipc.com](#); [wendelynne.newton@bipc.com](#); [Cary, George S.](#); [Brannon, Leah](#); [Ewing, Elaine](#); [Dassin, Lev L.](#); [Mindlin, Danielle P.](#); [clinn@orrick.com](#); [dwarshaw@pswplaw.com](#); [isquith@whafh.com](#); [liscow@wharf.com](#)
Subject: Case 1:14-md-02542-VSB Rogers' Reply ISO Motion for a Preliminary Injunction (Part 3 of 3)

Attached is part 3 of Plaintiff Rogers' Request to File Under Seal its Reply Brief in support of its Motion for a Preliminary Injunction and related documents.

Minna Lo Naranjo

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Exhibit C

From: [Naranjo, Minna Lo](#)
To: [Johnson, Jr., Daniel](#); [Roger, Kent M.](#); [Hoying, Herman J.](#); [Carr, Michael F.](#); [Hsu-Hoffman, Ahren C.](#); [Bregman, Dion M.](#); [Minne, Jacob J.O.](#); [abadini@winston.com](#); [storpey@winston.com](#); [dwebb@winston.com](#); [jherbison@winston.com](#); [dhughes@winston.com](#); [lnussbaum@gelaw.com](#); [pbarile@gelaw.com](#); [lsilvestro@gelaw.com](#); [mbuchman@motleyrice.com](#); [astraust@motleyrice.com](#); [jioannou@motleyrice.com](#); [bpersky@rkmc.com](#); [kerner@rkmc.com](#); [efriedman@rkmc.com](#); [rkapan@kaplanfox.com](#); [rkilsheimer@kaplanfox.com](#); [garensen@kaplanfox.com](#); [ldubick@kaplanfox.com](#); [mchoi@kaplanfox.com](#); [bc@pritzker-law.com](#); [sy@pritzker-law.com](#); [ecp@pritzker-law.com](#); [jak@girardgibbs.com](#); [agkurtz@pomlaw.com](#); [jagoldstein@pomlaw.com](#); [mbgoldstein@pomlaw.com](#); [mschwartz@scott-scott.com](#); [bsimon@pswlaw.com](#); [rretana@pswlaw.com](#); [jmclean@bzbm.com](#); [pryan@bzbm.com](#); [rbunzel@bzbm.com](#); [bedlund@bzbm.com](#); [shart@smsm.com](#); [downen@polsinelli.com](#); [gzorogastua@polsinelli.com](#); [xanb@rgrdlaw.com](#); [bonnys@rgrdlaw.com](#); [cmedici@rgrdlaw.com](#); [patc@rgrdlaw.com](#); [drosenfeld@rgrdlaw.com](#); [srudman@rgrdlaw.com](#); [atamoshunas@tcllaw.com](#); [klandau@tcllaw.com](#); [mgreaves@tcllaw.com](#); [dgustafson@gustafsongluek.com](#); [fqian@wolfpopper.com](#); [llevy@wolfpopper.com](#); [pavery@wolfpopper.com](#); [ctrinko@gmail.com](#); [jtraystman@trinko.com](#); [cbriskin@findjustice.com](#); [notifications@oliverlg.com](#); [manifold@whafh.com](#); [gregorek@whafh.com](#); [livesay@whafh.com](#); [geoffrey.grivner@bipc.com](#); [london.jones@bipc.com](#); [wendelynn.newton@bipc.com](#); [Cary, George S.](#); [Brannon, Leah](#); [Ewing, Elaine](#); [Dassin, Lev L.](#); [Mindlin, Danielle P.](#); [clinn@orrick.com](#); [dwarshaw@pswplaw.com](#); [isquith@whafh.com](#); [liscow@whafh.com](#)
Subject: RE: Case 1:14-md-02542-VSB Rogers" Reply ISO Motion for a Preliminary Injunction (Part 1 of 3)
Date: Wednesday, September 03, 2014 12:04:59 AM

Counsel:

It has come to my attention that certain documents were inadvertently attached to this email (Part 1 of 3) that cannot be shared with all parties. Please immediately destroy the email sent below and all attachments. I will re-send this email with all pertinent documents removed.

Thanks,
Minna

Minna Lo Naranjo

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From: Naranjo, Minna Lo
Sent: Tuesday, September 02, 2014 8:11 PM
To: BroderickNYSDChambers@nysd.uscourts.gov
Cc: [Johnson, Jr., Daniel](#); [Roger, Kent M.](#); [Hoying, Herman J.](#); [Carr, Michael F.](#); [Hsu-Hoffman, Ahren C.](#); [Bregman, Dion M.](#); [Minne, Jacob J.O.](#); [abadini@winston.com](#); [storpey@winston.com](#); [dwebb@winston.com](#); [jherbison@winston.com](#); [dhughes@winston.com](#); [lnussbaum@gelaw.com](#); [pbarile@gelaw.com](#); [lsilvestro@gelaw.com](#); [mbuchman@motleyrice.com](#); [astraust@motleyrice.com](#); [jioannou@motleyrice.com](#); [bpersky@rkmc.com](#); [kerner@rkmc.com](#); [efriedman@rkmc.com](#); [rkapan@kaplanfox.com](#); [rkilsheimer@kaplanfox.com](#); [garensen@kaplanfox.com](#); [ldubick@kaplanfox.com](#); [mchoi@kaplanfox.com](#); [bc@pritzker-law.com](#); [sy@pritzker-law.com](#); [ecp@pritzker-law.com](#); [jak@girardgibbs.com](#); [agkurtz@pomlaw.com](#); [jagoldstein@pomlaw.com](#); [mbgoldstein@pomlaw.com](#); [mschwartz@scott-scott.com](#); [bsimon@pswlaw.com](#); [rretana@pswlaw.com](#); [jmclean@bzbm.com](#); [pryan@bzbm.com](#); [rbunzel@bzbm.com](#); [bedlund@bzbm.com](#); [shart@smsm.com](#); [downen@polsinelli.com](#); [gzorogastua@polsinelli.com](#); [xanb@rgrdlaw.com](#); [bonnys@rgrdlaw.com](#); [cmedici@rgrdlaw.com](#); [patc@rgrdlaw.com](#); [drosenfeld@rgrdlaw.com](#); [srudman@rgrdlaw.com](#); [atamoshunas@tcllaw.com](#); [klandau@tcllaw.com](#); [mgreaves@tcllaw.com](#); [dgustafson@gustafsongluek.com](#); [fqian@wolfpopper.com](#); [llevy@wolfpopper.com](#); [pavery@wolfpopper.com](#); [ctrinko@gmail.com](#); [jtraystman@trinko.com](#); [cbriskin@findjustice.com](#); [notifications@oliverlg.com](#); [manifold@whafh.com](#); [gregorek@whafh.com](#); [livesay@whafh.com](#); [geoffrey.grivner@bipc.com](#); [london.jones@bipc.com](#); [wendelynn.newton@bipc.com](#); [gcary@cgsh.com](#)

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Subject: Case 1:14-md-02542-VSB Rogers' Reply ISO Motion for a Preliminary Injunction (Part 1 of 3)

Dear Judge Broderick:

Attached please find Plaintiff Rogers' Request to File Under Seal its Reply Brief in support of its Motion for a Preliminary Injunction and related documents. Due to the size of these documents, we'll sending this email in three parts. This is the first part.

Best regards,
Minna

Minna Lo Naranjo

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